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Assembly Joint Resolution No. \_\_\_\_  
Relative to antitrust law enforcement.



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WHEREAS, The top five companies on the Forbes' list of the most valuable brands of 2019 are technology companies that completely dominate their markets. These top 5 companies are Apple, Amazon, Google, Microsoft, and Facebook; and

WHEREAS, Google generated approximately 63 percent of the market share of web searches in the United States as of April 2019, 79 percent of the American online population uses Facebook as of June 30, 2017, and Amazon was expected to capture nearly 50 percent of all American online shopping by 2019; and

WHEREAS, The United States Congress has passed three main federal antitrust laws to protect consumers and promote consumer welfare with the objective of removing barriers for entry into markets, increasing competition, increasing the quality of products and services, and keeping prices down; and

WHEREAS, Congress passed the first antitrust law, known as the Sherman Antitrust Act of 1890 (Sherman Act), which prohibits "monopolization, attempted monopolization, or conspiracy or combination to monopolize," as quoted by the Federal Trade Commission, which is the federal agency responsible for protecting consumers and competition by preventing anticompetitive and other unfair business practices; and

WHEREAS, In 1914, Congress passed the Federal Trade Commission Act, which bans unfair methods of competition and unfair or deceptive acts or practices; and

WHEREAS, Also in 1914, Congress passed the Clayton Antitrust Act, which was subsequently amended in 1936 and 1976, to strengthen the Sherman Act by defining as illegal certain business practices that contribute to the formation of monopolies or that result from them; and

WHEREAS, The aforementioned antitrust laws served to protect consumers and combat industrial monopolies in the 20th century, but may be ill-equipped to preserve a competitive marketplace in the digital age of the 21st century; and

WHEREAS, The competitive health of markets should not be judged primarily by whether the market delivers goods and services at low prices. While this is indisputably a life-improving facet of a market, the health of markets should also be judged in part upon whether a market permits or suppresses an individual's ambition and practical ability to compete against incumbent businesses; and

WHEREAS, The United States House of Representatives' Committee on the Judiciary has announced a bipartisan investigation into competition in digital markets that will include a series of hearings held by the Subcommittee on Antitrust, Commercial and Administrative Law on the rise of market power online, as well as requests for information that is relevant to the investigation; and

WHEREAS, The Democratic chair of the subcommittee, David Cicilline of Rhode Island, has stated about the investigation, "After four decades of weak antitrust enforcement and judicial hostility to antitrust cases, it is vital for Congress to step in to determine whether existing laws are adequate to tackle abusive conduct by platform gatekeepers or if we need new legislation"; and

WHEREAS, The Republican Ranking Member of the House Committee on the Judiciary, Doug Collins of Georgia, has stated about the investigation, "As tech has expanded its market share, more and more questions have arisen about whether the market remains competitive. Our bipartisan look at competition in the digital markets gives us the chance to answer these questions and, if necessary, to take action"; and



WHEREAS, The federal government has agreed to divide antitrust investigative authority, with the United States Department of Justice overseeing potential antitrust investigations related to Apple and Google, while the Federal Trade Commission will oversee antitrust investigations of Facebook and Amazon; and

WHEREAS, California has its own statutes that similarly protect and promote free-market competition. These statutes are the Cartwright Act, the Unfair Practices Act, and the Unfair Competition Act; and

WHEREAS, Accordingly, California has its own independent duty and means by which to safeguard its citizens and businesses against market-dominating monopolies; now, therefore, be it

*Resolved by the Assembly and the Senate of the State of California, jointly,* That the Legislature commends the United States House of Representatives' Committee on the Judiciary's Subcommittee on Antitrust, Commercial and Administrative Law on its decision to investigate these issues with bipartisan support; and be it further

*Resolved,* That the Legislature urges the Federal Trade Commission, the United States Department of Justice, and the Congress of the United States to revisit federal antitrust laws so that price increases are not the primary criterion used to determine whether or not a potentially monopolistic act harms consumers; and be it further

*Resolved,* That the Legislature respectfully requests the California Attorney General to monitor closely the work of both the Subcommittee on Antitrust, and federal law enforcement, use best efforts to obtain evidence gathered by them, and provide the Legislature and the Governor with evidence that may have become available before January 1, 2020; and be it further

*Resolved,* That the Legislature respectfully requests the California Attorney General to also work closely with other state attorneys general to determine legal actions the State of California and other states may take to curb the monopolistic powers of giant technology companies; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Majority Leader of the Senate, to each Senator and Representative from California in the Congress of the United States, to each commissioner serving on the Federal Trade Commission, to the Attorney General of the United States, to the California Attorney General and to the author for appropriate distribution.



## LEGISLATIVE COUNSEL'S DIGEST

AJR No.  
as introduced, \_\_\_\_\_.  
General Subject: Antitrust law enforcement.

This measure would commend the United States House of Representatives' Committee on the Judiciary's Subcommittee on Antitrust, Commercial and Administrative Law on its decision to investigate antitrust issues. The measure would also urge the Federal Trade Commission, the United States Department of Justice, and the Congress of the United States to revisit federal antitrust law so that price increases are not the primary criterion used to determine whether or not a potentially monopolistic act harms consumers. The measure would respectfully request the California Attorney General to monitor closely the work of both the aforementioned subcommittee and federal law enforcement, use best efforts to obtain evidence gathered by them, and provide the Legislature and the Governor with evidence that may have become available before January 1, 2020, and to also work closely with other state attorneys general to determine legal actions the State of California and other states may take to curb the monopolistic powers of giant technology companies.

Fiscal committee: yes.

